

REMARKS

Applicants request reconsideration in view of the above amendment and the following remarks.

The Findings Used to Reject the Claims Under 35 USC § 112.

In the office action of December 20, 2004, all claims were rejected under 35 USC § 112 on grounds they included the limitation of “arranged to be difficult for a pirate to copy.”

Response to Findings Made Under 35 USC § 112

In response, the claims 1 and 7 are amended to remove that limitation and thereby more broadly define the invention.

The Findings Used to Reject the Claims Under 35 USC § 103.

In the office action of December 20, 2004, all claims were rejected under 35 USC § 103 on grounds the claims were obvious in view of Hurtado et al., US 6,611,812 and Kajiyama et al. US 6,108,296.

In particular, claims 1 and 6 were rejected based on findings that Hurtado teaches a CD-ROM and has a RAM portion with user-specific information in the form of a digital watermark. The rejection found that Kajiyama is a hybrid optical disc that has preformed identification information stored in a ROM portion. The micro-pits of Kajiyama appear to correspond to the performed identification information.

Independent method claim 7 was rejected on grounds it is a method of using the disc of claim 1 and thus the same findings for claim 1 apply to claim 7.

Claims 4 and 5 are rejected on a finding that Hurtado teaches a RAM portion that includes a series of interactive questions for soliciting answers to verify authenticity of the user.

Response to Findings Made Under 35 USC § 103.

The findings used to reject claims 1, 6 and 7 are clearly erroneous. Neither reference shows a hybrid optical disc. Instead, both references are for read-only discs.

The rejection acknowledges that Hurtado is a read-only disc. However, the other reference, Kajiyama, does not show or suggest a hybrid optical disk that has a RAM portion for holding user-specific information. The Kajiyama disc is consistent with a ROM device and fails to show or suggest and RAM areas in the disc. Note that Fig. 3 of the reference shows a method for recording an “original” disc. The reference uses the term “original” in the sense of a master. See column 5, lines 29-31, “When an original disc for the optical discs according to the second embodiment is made. . . .” The process described for Fig. 3 is consistent with forming a master disc: a laser writes data to photoresist that covers the surface of the disc. The reference does not show or suggest writing data to a disc after the disc has been manufactured.

The rejection also makes an erroneous finding that the Hurtado watermark contains user-specific information. On page 3 of the rejection it finds that the Hurtado disc has portion in which user-specific information is stored. That is clearly erroneous and is inconsistent with the later admission that Hurtado has no recordable area.

The rejection thus finds that the Hurtado digital watermark is different for each Hurtado disc. That finding is erroneous, is inconsistent with the acknowledgement in the rejection that Hurtado has no RAM and is contrary to the disclosure in Hurtado. Nowhere does Hurtado show or suggest making unique codes for each disc. Indeed, the essential function of a watermark is that it is the same for all media that bear the mark. In column 66, lines 42-45 Hurtado writes, “The watermark is applied as the first step in audio processing since it is **common to all encodings** of the song created.” (Emphasis added).

The findings made to reject claims 4 and 5 are clearly erroneous. Claims 4 and 5 are rejected on a finding that Hurtado teaches a RAM portion that includes a series of interactive questions for soliciting answers to verify authenticity of the user. Hurtado has no RAM portion; it is a read-only disc and does not have a section for storing user specific information in the form of interactive questions and answers unique to the user.

The above remarks show that the rejections made against the independent claims and against several of the dependent claims are clearly erroneous. They should be withdrawn. The claims are patentable over the applied art of record and Applicants request a notice of allowance.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Thomas R. FitzGerald", written over the printed name and registration number.

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